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ZIM AMERICAN INTEGRATED  
SHIPPING SERVICES, INC.,

07 CIV. 3670 (BAER)

Plaintiff,

- against -

SUNBELT MACHINERY, INC.,

Defendant.  
-----XMEMORANDUM OF LAWFacts

This action was commenced seeking \$24,454.00 in unpaid ocean freight. Defendant was served on May 14, 2007, and failed to answer.

POINT I

THE COURT MAY ENTER  
A DEFAULT JUDGMENT

Under Fed.R.Civ.P. 55(b)(2), the Court may enter a judgment by default, so long as the Court, in its discretion, can ascertain from the facts set forth in the Complaint that a judgment is warranted. *Au Bon Pain v. Arctect, Inc.*, 653 F.2d 61, at 65 (2d. Cir. 1981). Plaintiff submits that the affidavit of Tasos Christ, together with the Complaint, Bill of Lading, and dishonored check, satisfies the requirement of sufficient proof of the accuracy of the allegations of the Complaint.

POINT II

INTEREST AT 6% IS APPROPRIATE

"It is firmly established that [a]llowance of pre-judgment interest in admiralty [actions] . . . should be granted in the absence of exceptional circumstances, and that the rate of pre-judgment interest is within the broad discretion of the district court." Mentor Ins. Co. (U.K.) Ltd. v. Brannkasse, 996 F.2d 506, 520 (2d. Cir. 1993) (Internal citations and quotations omitted.) Plaintiff submits that 6% from the dates of the bills of Lading is proper.

CONCLUSION

Judgment by default, with interest, is appropriate.

Dated: New York, New York  
June 14, 2007

LAW OFFICES OF  
ALBERT J. AVALLONE & ASSOCIATES

By

  
Albert J. Avallone - AA1679  
Attorneys for Plaintiff  
ZIM AMERICAN INTEGRATED  
SHIPPING SERVICES, INC.  
551 Fifth Avenue, Suite 1625  
New York, NY 10176  
(212) 696-1760

CITY OF NEW YORK       )  
STATE OF NEW YORK     ) SS:  
COUNTY OF NEW YORK )

Albert J. Avallone, being duly sworn, deposes and says that he is a member of the Law Offices of Albert J. Avallone & Associates, attorneys for plaintiff herein.

That on the 14th day of June, 2007, he served the within

Memorandum of Law

upon the following:

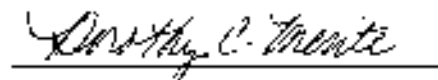
Sunbelt Machinery  
4345 Granby Way  
Marietta, GA 30062-8150  
Attn: Dudley D. Benson, President

by depositing (a) true copy(ies) of the same securely enclosed in (a) postpaid wrapper(s) in a Post Office Box regularly maintained by the United States Government at 551 Fifth Avenue, New York, NY 10176, directed to the above mentioned individual(s) at his (their) respective address(es) above, that (these) being the address(es) within the State designated by him (them) for that purpose upon the preceding papers in this action or the place where he (they) then kept an office, between such places, there then was and now is a regular communication by mail.

Deponent is over the age of 18 years.



Sworn to before me this  
14th day of June, 2007



DOROTHY C. MERITE  
Notary Public, State of New York  
No. 31-4981887  
Qualified in New York County  
My Commission Expires 3/31/2010